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Remarks

The present response is to the Office Action mailed in the above referenced case on December 29, 2004, made non-Final. Claims 1-12 are presented below for Examination. Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sriram (U.S. 5,463,620), hereinafter Sriram, in view of Kalkunte et al. (6,470,016), hereinafter Kalkunte.

In response applicant herein amends the base claims to recite wherein the queue value is assigned to a specific queue independent from and regardless of tolerable delay of its assigned data. Applicant further provides argument that the prior art, either singly or in combination, does not and cannot produce applicant's invention, as embodied in the claims as amended. Applicant further points out and argues the key limitations of applicant's base claims as amended, which distinguish clearly and unarguably over the prior art presented.

The Examiner relies on the primary reference of Sriram for teaching substantially applicant's claimed limitations, with the exception that Sriram fails to teach reallocation of traffic capacity among other queues. The Examiner cites Kalkunte for teaching this deficiency.

Applicant's independent claims specifically recite that each queue is assigned a queue value related to preference. It is the Examiner's contention that the queues in Sriram are priority queues and are classified according to tolerable delay, and said classification is tantamount to assigning a value to the queue.

Applicant must argue however, that Sriram does not teach assigning a value to a queue according to transfer preference of the data therein, as in applicant's invention; rather, Sriram clearly teaches that it is the incoming data destined for output to link 28 that is classified (value assigned), it is not the queues themselves that are assigned priority value, as in applicant's invention and claims. Sriram teaches that the incoming data is selectively directed to a particular queue depending on the type, or classification of the data and each queue of the plurality of queues is restricted to a certain type of data.

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Which queue holds which type of data is purely dependent on the type of data, not any type of priority assignment to the queues.

Further, applicant argues that a tolerable delay associated with a type of data (1A, 1B, etc), is clearly not an assignable preference, or weight, and cannot be properly construed as such. The classification of the incoming data based on which type of data it happens to be, and the tolerable delay associated with each data type, causes transfer priority for each queue to be arbitrary, not selectively assignable, such as by a programmer skilled in the art, as in applicant's invention.

For example, in applicant's invention each queue of the plurality of queues is not restricted to a certain type of data, and the transfer preference for each particular queue is not restricted to the classification of the data type, as in Sriram. The priority weight is assigned to the queue in applicant's invention; so that a preference can be given for transfer of the data queued therein, regardless of the data type or tolerable delay of the data, which is now specifically recited in applicant's independent claims. For instance, if in applicant's invention, there is bulk video data, which would normally be a low priority type of data, queued for output in one queue, and real-time video streaming (high priority) data queued in another queue, by selectively assigning the priority weight to the queue, not just by classifying the data type, data transfer from the low priority queue can be selectively prioritized over the high priority queue. This is clearly not possible in Sriram because the data type of the queued data determines the transfer priority for queue, not a preference or weight assignable to an individual queue, as in applicant's invention.

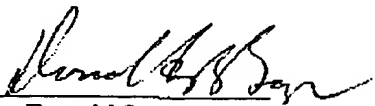
Applicant therefore believes that independent claims 1 and 7 as amended and argued above are clearly patentable over the prior art presented by the Examiner in this case, either singly or in combination. Depending claims 2-6 and 8-12 are then patentable on their own merits, or at least as depended from a patentable claim.

As all of the claims standing for examination, as amended, have been shown to be patentable over the rejection and objections of the Examiner, applicant respectfully requests reconsideration after Final, and that the present case be passed quickly to issue. If there are any time extensions due beyond any extension requested and paid with this

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amendment, such extensions are hereby requested. If there are any fees due beyond any fees paid with the present amendment, such fees are authorized to be deducted from deposit account 50-0534.

Respectfully Submitted,
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